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David B. Harrison
Direct Dial: 973.232.4109
dharrison@spiroharrison.com

May 11, 2018

VIA ECF

Hon. George B. Daniels
United States District Judge
United States District Court, Southern District of New York
500 Pearl St., Court Room 11A
New York, NY 10007-1312

Re: Joel and Mary Rich v. Ed Butowsky *et al.*
Docket No. 1:18-cv-02223

Dear Judge Daniels:

This Firm represents Defendant Ed Butowsky (“Butowsky”) in the above-captioned matter. Today, May 11, 2018, defendant Fox News Network (“Fox”), through its counsel, filed a letter requesting that the Court stay discovery pending the outcome of its motion to dismiss. Mr. Butowsky intends to file a motion to dismiss on Monday, May 14, 2018 and therefore also requests that the Court stay discovery for the reasons stated in Fox’s letter.

For purposes of this application, we add only that it would be particularly appropriate to stay discovery as to Mr. Butowsky given that it is unlikely, based on the facts alleged, that the Court will find it has personal jurisdiction over him. For context, Mr. Butowsky is a resident of Texas and Plaintiffs are from Nebraska. Plaintiffs have only alleged that Mr. Butowsky was a Fox News contributor (which happens to be broadcast from New York), but do not allege whether any of those contributions took place in New York, or anywhere else for that matter. Compl. ¶ 12. Mr. Butowsky’s unrelated, past contributions to Fox programming do not support jurisdiction over him in this case. *See Com Walden v. Fiore*, 134 S. Ct. 1115 (2014) (Plaintiff must establish Defendant’s conduct “create[s] a substantial connection with the forum state.”).

Plaintiffs also allege that Mr. Butowsky sent a communication to Fox producers and on-air talent (Compl. ¶ 82), who happened to be based out of New York, but communications into New York have firmly been held insufficient to confer jurisdiction on a party. *See Three Five Compounds, Inc. v. Scram Techs. Inc.*, No. 11 CV 1616, 2011 U.S. Dist. LEXIS 134530, at *7 (S.D.N.Y. Nov. 21, 2011) (“correspondence sent into New York, by a non-domiciliary defendant who is outside New York, . . . [is] insufficient to establish personal jurisdiction.”).

Plaintiffs clearly do not meet their burden of showing that Mr. Butowsky is subject to the jurisdiction of this Court. Where the adjudication of a “potentially dispositive motion” to dismiss for lack of personal jurisdiction “might avoid the need for costly and time-consuming discovery,”

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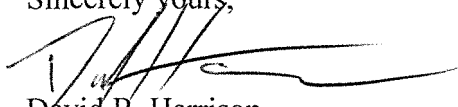
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a stay of discovery is appropriate. *See Gandeler et al. v. Nazarov*, No. 94-cv-2272, 1994 WL 702004, * 2 (S.D.N.Y. Dec. 14, 1994).

Thank you for your Honor's courteous attention to this matter. Please do not hesitate to contact me with any further questions.

Sincerely yours,



David B. Harrison